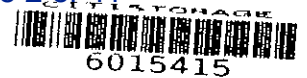


EXHIBIT K



1 SUPREME COURT OF THE STATE OF NEW YORK
2 COUNTY OF BRONX : CRIMINAL TERM : PART T-13

3 -----x

4 THE PEOPLE OF THE STATE OF NEW YORK, :Ind. No.

5 -against- :2207/01

6 ANTHONY MANGANIELLO, :TRIAL

7 Defendant(s) :

8 -----x

9 851 Grand Concourse
10 Bronx, New York 10451
June 28th, 2004

11 B E F O R E:
12

13 HONORABLE MARTIN MARCUS,
JUSTICE SUPREME COURT & jury.

14 A P P E A R A N C E S:

15 ROBERT T. JOHNSON, ESQ.
16 District Attorney, Bronx County
BY: CHRISTINE SCACCIA, ESQ.
17 SUZANNE MCELWREATH, ESQ.
Assistant District Attorney

18 FOR THE DEFENDANT(S):
19

20 MURRAY RICHMAN, ESQ.
21 RENEE HILL, ESQ.
2027 Williamsbridge Road
Bronx, NY

22

23

24

25

Lorraine L. Ramsey
Senior Court Reporter

Cobb - People - Direct 41

1 Q. And what unit were you assigned to in
2 the Marines?

3 A. From?

4 Q. What unit?

5 A. First Marines, First Marine Division.

6 Q. Did you have any specialization within
7 the Marine Corps?

8 A. Weapons. I was in a weapons company.

9 Q. Now, I want to direct your attention
10 specifically to February 12th of 2001, okay?

11 You have to answer.

12 A. I'm not logging in on that.

13 Q. Were you working as a member of
14 Parkchester on that day?

15 A. Yes, I was.

16 Q. And what building were you assigned to
17 that day?

18 A. 1700 Metropolitan Avenue.

19 Q. What time did your day begin as a
20 porter in Parkchester?

21 A. Usually eight o'clock in the morning.

22 Q. And now, were you normally assigned to
23 1700?

24 A. I'm what they call a miscellaneous
25 man. When someone is off, calls in sick or is

Cobb - People - Direct 42

1 absent, I'm assigned to it, those buildings, any
2 particular building.

3 Q. So, on February 12th was it 1700 that
4 was your assignment?

5 A. Yes.

6 Q. And now as a porter do you work alone
7 or are there other porters in the building; how
8 does it work?

9 A. We -- you're, you usually are assigned
10 to two buildings at a time.

11 Q. So what other building were you
12 assigned to that day, do you remember?

13 A. The building next to it, I don't
14 remember offhand right now.

15 You've aged me.

16 Q. Now, when you --

17 First of all, if you don't mind me
18 asking, how old are you, sir?

19 A. I'm 69.

20 Q. And when you worked as a porter in
21 1700, where was your work, where did your work
22 particularly take you within the building?

23 A. Usually we start from the bottom up.

24 Q. The bottom being the main or the
25 street level?

Cobb - People - Direct 43

1 A. Of the main floor or the floor below
2 which happens to be the basement, the basement in
3 this particular building happened to be the main
4 floor.

5 Q. Now, with respect to the basement of
6 1700 Metropolitan, how would you gain access into
7 the basement?

8 A. The access to the entrance to the main
9 or rather the main entrance it's off on the
10 right-hand side, this one the back entrance
11 happened to be on the avenue, which was nearest to
12 me, that's where I entered.

13 Q. Okay. So there was a main entrance to
14 the basement, right?

15 A. A little further up and to the
16 right-hand side from me.

17 Q. On the street, you didn't have to go
18 --

19 A. On the street, not on the actual
20 Metropolitan Avenue.

21 Q. And the door that leads into this
22 basement, was that a door that was, how was that
23 door kept, was it secured in any way?

24 A. It's a typical door in, entrance in
25 and out.

Cobb - People - Direct 44

1 Q. Okay. And did you need anything
2 special to gain entry into that basement?

3 A. We have, each building or each porter
4 is, assigned to any specific building, is given a
5 key, in this instance it's called a comp key.

6 Q. A comp key?

7 A. A comp key, electronic key.

8 Q. What would you have to do with this
9 key in order to gain entrance into the building?

10 THE COURT: Just --

11 A. At what time?

12 THE COURT: I'm sorry. Are we
13 still talking about the main door?

14 MS. SCACCIA: Into the basement,
15 I'm talking about the main door into the
16 basement.

17 THE WITNESS: The entrance which I
18 entered into at that moment which was the
19 back entrance.

20 THE COURT: There a difference.
21 Are you making a distinction between the back
22 entrance and the main entrance to the
23 basement?

24 THE WITNESS: It didn't make a
25 difference as long as you gain entrance to

Cobb - People - Direct 45

1 the building and this, in this instance when
2 I walked in, the entrance was on the
3 Metropolitan side which happened to be the
4 back entrance or exit.

5 Q. Did you need a key at both entrances?

6 A. Both, the same key applies to both
7 entrance and exit and main entrance.

8 Q. Now, other than workers, do
9 tenants have keys to gain access to the basement
10 areas?

11 A. If you live and you occupy, you rent,
12 whatever, yeah, your key, particular key opens
13 and let's you in and out of that particular
14 building.

15 Q. Okay.

16 A. Not to the building adjacent, that's
17 the ways they're made.

18 Q. Sir, now if you open the door with
19 your key and walk into the basement of 1700
20 Metropolitan Avenue, what is located in the
21 basement?

22 A. Principally the floor.

23 As you walk, walk in the hall, the
24 hallway is L shaped from what I remember and
25 various doors which are what they call, up to this

Cobb - People - Direct 46

1 point, call carriage rooms.

2 Q. And is anything kept in these rooms?

3 A. At one time, not to my knowledge as of
4 what happened then.

5 Q. Now, these rooms, are they open or are
6 they secured in any way?

7 A. They're secured or closed.

8 Q. And how are they secured, is it the
9 same kind of comp key or something else?

10 A. No, different keys for each different
11 door, depending on what's in there, what was in
12 there previously or for someone to gain access to
13 them you would have to go to the main office and
14 get keys for them.

15 Q. Even if a tenant had a key to get into
16 the basement, you could not use such keys for
17 these rooms?

18 A. No.

19 Q. Who has the keys to these individual
20 carriage rooms?

21 A. Whoever needs access to them would
22 have to go to the office and/or someone be sent to
23 security or someone sent over specifically.

24 Q. So, Mr. Cobb, now I want to take you
25 back specifically to February 12th of 2001.

Cobb - People - Direct 47

1 You said you got to work at about
2 eight or so that day, your normal hours, correct?

3 A. Uh-hum.

4 Q. And that now you were saying as you
5 were approaching, you were approaching 1700, the
6 building, from the street; what street were you
7 walking on?

8 A. Metropolitan Avenue.

9 Q. Okay. And now, the carriage rooms
10 that are located in the basement of 1700, do they
11 have any windows or other doors that face out onto
12 Metropolitan Avenue?

13 A. Several have, but the windows were
14 facing out, one particular window facing out to
15 Metropolitan Avenue.

16 Q. And now, you're walking along.

17 Could you tell us what, if anything,
18 you remember happening as you're now walking
19 towards the basement of 1700?

20 A. A few steps ahead of me was what they
21 call a ramp to get into the building, but prior to
22 that, there's one particular window I happen to
23 hear.

24 Q. What did you hear?

25 A. Four shots.

Cobb - People - Direct 48

1 Q. Now, the shots that you heard, did you
2 have any idea where they appeared to be coming
3 from?

4 A. From one particular, only one
5 particular window as I approached the ramp.

6 Q. Other than hearing the shots, at that
7 moment in time, did you see anything else around
8 you on the street?

9 A. No, ma'am.

10 Q. And could you describe for the ladies
11 and gentlemen of the jury what these shots sounded
12 like to you?

13 A. Well, I'm familiar, being that I was
14 in the United States Marine Corps, with firearms
15 and they sounded muffled to me, like they came
16 from a 22 or a 25.

17 Q. Why do you say 22 or 25, what makes
18 you say that?

19 A. The caliber, less power in the shell,
20 less noise. A higher caliber would make much more
21 noise and coming in a, let's say empty basement,
22 would make a much louder noise.

23 Anything below that would sound like
24 a fire cracker. But I can tell the difference.

25 Q. Okay. So now, after you hear these

Cobb - People - Direct 49

1 four shots, what do you do?

2 A. What do I?

3 Q. What do you do?

4 A. I forgot it completely for the brief
5 moment. I had made my turn to the small ramp to
6 gain entrance to the building.

7 Q. And what happens?

8 A. As I use my comp key or was about to
9 use my comp key, the door flies open. I didn't
10 touch, I didn't even get to physically touch the
11 door. The door flew open.

12 Q. What causes the door to fly open,
13 Mr. Cobb?

14 A. Someone exiting it from the inside to
15 the outside.

16 Q. Okay. And this person who was exiting
17 it, had you ever seen this person before, ever?

18 A. At that particular moment I saw him,
19 yes.

20 Q. And did you recognize this person?

21 A. Yes, I did.

22 Q. And who did you recognize the person
23 to be?

24 Who was it?

25 A. Well, I don't know him but I found out

Cobb - People - Direct 50

1 later because he work in the place, I know him by
2 sight.

3 Q. Okay. And how did you recognize him
4 as working in your place?

5 A. Because of the uniform he had.

6 Q. This is an individual who you said you
7 had seen by sight?

8 A. Yes, on the premises.

9 Q. Did you see, when you saw this
10 individual, was he dressed in any uniform?

11 A. Yes.

12 Q. Mr. Cobb, I'm going to ask you to take
13 a look around the courtroom today and indicate for
14 us if you see the person you saw open the door on
15 February 12th, 2001 here in this courtroom?

16 A. Yes, ma'am.

17 Q. Where is he?

18 A. Directly to my left.

19 Q. Okay.

20 MR. RICHMAN: Indicating the
21 defendant.

22 Q. Now, when the defendant, Mr.
23 Manganiello opened the door, did you say something
24 to him, Mr. Cobb?

25 A. Yes, I did.

Cobb - People - Direct 51

1 Q. What did you say to him?

2 A. Absent-mindedly, I don't know why it
3 came out of me, I thought I heard -- not thought,
4 I retract it -- "I heard some shots".

5 Q. And what did he say when you said
6 that?

7 A. What did I what?

8 Q. What did he say when you said that?

9 A. "So did I" and pointed over my left
10 shoulder.

11 Q. Indicating what?

12 A. You go this way, I go that way.

13 MR. RICHMAN: Objection.

14 THE COURT: Tell us what he did or
15 said.

16 A. He said to me, "I did, you go this way
17 and I go that way." He pointed directly to my
18 left shoulder which happens to be the north side.
19 Parkchester is divided into four quadrants.

20 Q. Now, after Mr. Manganiello said "you
21 go this way" and pointed over your shoulder, which
22 way did he go?

23 A. From my back directly to my rear to my
24 right.

25 Q. And in relation to the way you

cpE

Booth - People - Direct

1 Bronx County.

2 THE COURT: You may inquire.

3 MS. SCACCIA: Thank you, Your Honor.

4 DIRECT EXAMINATION

5 BY MS. SCACCIA:

6 Q. Good afternoon, Mr. Booth.

7 A. Good afternoon.

8 Q. Mr. Booth, I'm gonna try to speak nice and
9 loud. I'm gonna ask you to do the same, okay.

10 Can you answer?

11 A. Little louder.

12 Q. Little louder. I'll move closer.

13 How old are you, sir?

14 A. Thirty-nine.

15 Q. And do you work?

16 A. Excuse me?.

17 Q. Do you work?

18 A. Yeah.

19 Q. What type of work do you do?

20 A. Work at Hunts Point Fruits and Vegetables.

21 Q. Now, Mr. Booth, are you familiar with the
22 area of Parkchester here in Bronx County?

23 A. Yes, I am.

24 Q. And how is it that you're familiar with that
25 area?

cpE

Booth - People - Direct

1 A. I used to work there years ago.

2 Q. Other than working there, did you ever hang
3 out in the area?

4 A. Yeah.

5 Q. How often would you go around Parkchester or
6 be by there?

7 A. About three times a week.

8 Q. And was that true to in the year 2001, would
9 you go there for the years leading up to 2001 about
10 three times a week?

11 A. Yes.

12 Q. During the time that you used to go to
13 either work or pass by the area of Parkchester, did you
14 come to know some of the people who worked and lived in
15 that area?

16 A. Yeah.

17 Q. And where would you come in contact with
18 those people?

19 A. All over.

20 Q. During the course of the time that you were
21 frequenting Parkchester, did you come to know any of
22 the security guards?

23 A. Yes.

24 Q. What about a security guard by the name of
25 Mr. Anthony Manganiello?

cpE

Booth - People - Direct

1 A. Yes.

2 Q. Do you see Mr. Manganiello here in court?

3 A. Yes.

4 Q. Where is he and what is he wearing?

5 A. Gray suit (indicating).

6 MR. RICHMAN: Indicating the defendant.

7 Q. Now, when you say that you became familiar
8 with who Mr. Manganiello was, were the two of you
9 friends?

10 A. Just knew each other, acquaintances.

11 Q. Where did you meet Mr. Manganiello?

12 A. In the pizzeria.

13 Q. At this pizzeria, where is it in relation to
14 Parkchester?

15 A. In Parkchester.

16 Q. What street, though?

17 A. Metropolitan Avenue.

18 Q. And how often would you see Mr. Manganiello?

19 A. Once or twice a week.

20 Q. When you saw him, was he usually in uniform
21 or civilian clothing?

22 A. I wouldn't -- both.

23 Q. Now, did you have any sort of conversations
24 with Mr. Manganiello when you would see him?

25 A. No. Just hi, good-bye.

cpE

Booth - People - Direct

1 Q. Did you ever socialize with him in other
2 places other than this Parkchester area?

3 A. No.

4 Q. I want to direct your attention now to early
5 2001.

6 Were you still frequenting Parkchester two
7 to three times a week?

8 A. Yeah.

9 Q. And would you still see Mr. Manganiello when
10 you went there?

11 A. Yeah, once in awhile.

12 Q. Did there come a point in time during that
13 time period when you had an unusual conversation?

14 MR. RICHMAN: Objection.

15 THE COURT: Come up, please.

16 (Whereupon, a discussion was held off
17 the record between the Court and Counsel.)

18 THE COURT: Objection withdrawn?

19 MR. RICHMAN: Yes, sir.

20 Q. Do you want me to repeat the question?

21 A. Yeah, please.

22 Q. During the time period of early February,
23 late January 2001, did there come a point in time when
24 you had a conversation with Mr. Manganiello during that
25 time period that was not the usual conversation you had

cpE

Booth - People - Direct

1 with him?

2 A. Yeah.

3 Q. Can you please tell us, first of all, where
4 you were when this conversation took place?

5 A. I was in front of the bank and Macy's.

6 Q. What were you doing?

7 A. Waiting for my friend.

8 THE COURT: Sorry, waiting for your
9 friend?

10 THE WITNESS: Yeah.

11 Q. Were you inside, outside? Where exactly
12 were you?

13 A. I was sitting in my car.

14 Q. And what happens?

15 A. He came up to the window and asked me for a
16 rod.

17 Q. Let's slow down. Who came up to your
18 window?

19 A. Short, fat guy (indicating).

20 Q. You said -- you're pointing with your hand.
21 Can you please tell --

22 MR. RICHMAN: I hope he's not pointing
23 at me.

24 Q. Can you please tell us, Mr. Booth, and be
25 specific, who came up to your window?

cpE

Booth - People - Direct

1 A. Anthony. That's his name.

2 Q. And when he came up to your window, what did
3 he say?

4 A. Where can he get a rod from.

5 Q. A rod?

6 A. Yes. Yes.

7 Q. What did you understand that to mean?

8 MR. RICHMAN: Objection.

9 THE COURT: Sustained.

10 Q. What did you say to Mr. Manganiello when he
11 asked you if you knew where he could get a rod from?

12 A. I said, "No. I don't play with nothing like
13 that. "So I closed the window on him.

14 Q. I can't -- you're mumbling.

15 A. I said -- I told him that "I don't play with
16 nothing like that." I closed the window on him.

17 Q. After he said that to you, what happens
18 next?

19 A. I just shut the window.

20 Q. After that conversation, did Mr. Manganiello
21 ever approach you in any sort of similar way again?

22 A. No.

23 Q. When it initially happened, Mr. Booth, this
24 conversation, did you immediately tell anybody about
25 it?

cpE

Booth - People - Direct

1 A. I don't remember.

2 Q. Well, did you tell anybody of a law
3 enforcement nature about it as soon as it happened?

4 A. I don't remember.

5 Q. At some point in March of 2001 do detectives
6 come to speak to you?

7 A. Yes.

8 Q. And at that point, do you tell the
9 detectives what you told us here in court today?

10 A. Yes.

11 Q. And did the detectives ask you to sign or
12 write out a statement to the effect?

13 A. Yes.

14 Q. About what happened?

15 A. Yes.

16 Q. And did you do that?

17 A. Yes.

18 Q. Prior to this unusual conversation that you
19 had with Mr. Manganiello, did you ever have any
20 problems with him?

21 A. No.

22 Q. Since the conversation that he asks you for
23 the rod, have you had any problems?

24 A. No.

25 Q. And lastly, Mr. Booth, when you responded to

cpE

Booth - People - Cross

1 Mr. Manganiello about you don't play with nothing like
2 that, what did you mean, you don't play with?

3 A. I only assume it was a gun.

4 MS. SCACCIA: Your Honor, I have no
5 further questions of this witness.

6 CROSS-EXAMINATION

7 BY MR. RICHMAN:

8 Q. You assumed it was a gun; is that correct?
9 Now, Mr. Booth --

10 THE COURT: Did you get an answer?

11 MR. RICHMAN: I'm sorry.

12 Q. You assumed it was a gun?

13 A. Yeah, I assumed.

14 Q. And could you tell us when did this happen?

15 A. Excuse me.

16 Q. When did this happen?

17 A. 2001.

18 Q. Are you sure?

19 A. I think. I think.

20 Q. And what month, do you remember?

21 A. It was cold. March.

22 Q. How were you dressed?

23 A. Huh?

24 Q. How were you dressed?

25 A. February maybe. March, February.

cpB

S.P.O. Colon - People - Direct

4-13

1 C-O-L-O-N. Parkchester Security.

2 THE COURT: You may inquire.

3 MS. SCACCIA: May I?

4 THE COURT: Yes.

5 DIRECT EXAMINATION

6 BY MS. SCACCIA:

7 Q. Good afternoon, Officer Colon.

8 A. Good afternoon, ma'am.

9 Q. Officer Colon, how long have you worked at
10 Parkchester?

11 A. Going on 22 years.

12 Q. Back on February 12th of 2001, were you
13 working as a Parkchester officer that day?

14 A. Yes, ma'am, I was.

15 Q. And what was your assignment that day?

16 A. I was dispatcher.

17 Q. And the dispatcher's office, is that
18 referred to as Central?

19 A. Central, right.

20 Q. What hours did you work?

21 A. Eight to four. Eight A.M. to four P.M.

22 Q. And when you work as a dispatcher, what are
23 your duties?

24 A. To relay calls, incoming calls to officers
25 in the field.

cpB

S.P.O. Colon - People - Direct

414

1 Q. And now the calls that you relay to the
2 officers in the field, do you get them sometimes from
3 civilians who are calling for assistance?

4 A. Yes, ma'am.

5 Q. And the calls that you get from civilians
6 that are calling for assistance, do they come over a
7 telephone or a land line?

8 A. Both.

9 Q. And what about do you receive communications
10 from officers who are already out in the field?

11 A. Also from officers in the field that get
12 complaints from tenants.

13 Q. How do the officers communicate with
14 Central?

15 A. Beg your pardon.

16 Q. How do the officers out in the field
17 communicate with Central?

18 A. By radio.

19 Q. Now, as part of your duties of being a
20 dispatcher for the eight to four shift on February 12th
21 of 2001, if you dispatched an officer to a particular
22 job, would you have to make notations of that?

23 A. Yes, ma'am, we do.

24 Q. And how are those notations -- what do you
25 make those notations in?

cpB

S.P.O. Colon - People - Direct

418

1 A. We have a book that we write down the events
2 of the day.

3 Q. And since you were working dispatch that
4 day, you were the keeper of this book?

5 A. Yes, ma'am.

6 Q. On that eight to four shift, aside from
7 yourself, was Officer Albert Acosta working and on duty
8 that day?

9 A. Yes, ma'am, he was.

10 Q. Was he also doing an eight to four?

11 A. Eight to four, yes, ma'am.

12 Q. And how about Officer Manganiello?

13 A. He was also working that day eight to four.

14 Q. By the way, do you see Officer Manganiello
15 here today?

16 A. He's sitting over there (indicating).

17 MR. RICHMAN: So stipulated.

18 THE COURT: Indicating the defendant.

19 Q. Now, from the time that you began your shift
20 as dispatcher, did you have an occasion to send Officer
21 Manganiello on any jobs that day?

22 A. Yes, I did.

23 Q. By the way, what section was Officer
24 Manganiello assigned to that day?

25 A. It was the East section.

cpB

S.P.O. Colon - People - Direct

415

1 Q. And within the East section, are there
2 different -- is there a separation of areas?

3 A. We have East, South and West. He was in
4 East.

5 Q. Those are quadrants?

6 A. In quadrants, right.

7 Q. Now, within the quadrants -- within the
8 Eastern quadrant, are there different sectors?

9 A. Within the one quadrant?

10 Q. Uh-hmm?

11 A. It's one section, whole.

12 Q. Okay. And when officers are assigned to
13 that quadrant, is it one assignment or are they broken
14 down in any way?

15 A. It's broken down in sections.

16 Q. Okay.

17 A. Like --

18 Q. What sections is the Eastern quadrant broken
19 down into?

20 A. East Adam Boy and East Charlie David.

21 Q. Which means AB, CD?

22 A. Right.

23 Q. Do you know which section Officer
24 Manganiello was assigned to?

25 A. That day he had East Charlie David.

cpB

S.P.O. Colon - People - Direct

3-7

1 Q. Who was assigned to East Adam Boy?

2 A. Officer Acosta.

3 Q. Now, getting back to dispatching Officer
4 Manganiello, where was the first place that you were
5 involved in dispatching him to?

6 A. What's the question?

7 Q. Where did you send -- where, if anywhere,
8 did you send Officer Manganiello that day?

9 A. A call came in about a dispute over the
10 police radio. It was relayed to me by the sergeant on
11 duty.

12 So, being that that post was Officer
13 Manganiello's post, I relayed the message over the
14 police -- over our radio to him to go to that -- to
15 that corner, 1700 Metropolitan Avenue.

16 Q. And 1700 Metropolitan Avenue is in the
17 Charlie David section of the Eastern quadrant?

18 A. Exactly, ma'am. Charlie David.

19 Q. And when you dispatched Officer Manganiello
20 to that call in the morning, did you make notations of
21 it in your logbook?

22 A. Yes, ma'am, I did.

23 Q. When you called Officer Manganiello to go
24 there, did he respond to you? Did he receive your
25 message?

cpB

S.P.O. Colon - People - Direct

418

1 A. Yes, he did.

2 Q. After that communication with Officer
3 Manganiello that morning, what's the next communication
4 you recall having with him?

5 A. As we usually do, it's the normal that we,
6 on calls like a dispute, we always send a backup unit.

7 Q. Okay.

8 A. That day Officer Acosta was his backup, so I
9 sent him over.

10 Q. Now, do you recall about what time in the
11 morning this was?

12 A. It was just before 9:00, somewhere around
13 there. I can't recall exactly.

14 Q. Does there come a point in time after this
15 initial call that you, once again, have contact with
16 Officer Manganiello in any way?

17 A. Not before that.

18 Q. No, after that.

19 A. Oh, after that, I was waiting for the
20 disposition of the final call. That never came.

21 Q. Okay. What if any further communications do
22 you have with Manganiello that day?

23 A. Well, I had a call from a telephone
24 repairman.

25 Q. And now when you say "a call from a

cpB

S.P.O. Colon - People - Direct

419

1 telephone repairman," that was how, on the telephone or
2 on your radio?

3 A. On the telephone.

4 Q. Okay. And based upon this phone call from a
5 telephone repairman, did you become aware of a
6 situation at a Parkchester location?

7 A. Right. Yes, ma'am.

8 Q. Where was this situation located?

9 A. At 1700 Metropolitan Avenue.

10 The telephone repairman indicated to me that
11 there was a man --

12 MR. RICHMAN: Objection.

13 THE COURT: Overruled.

14 MS. SCACCIA: You can answer.

15 A. There was a man laying down, apparently
16 sleeping, because he could hear him snore.

17 Q. And this was where?

18 A. On the floor of the -- we call it the --
19 it's a room there, you know, a large room.

20 Q. In what building?

21 A. 1700 Metropolitan Avenue.

22 Q. Once you get this telephone call from the
23 telephone man, what if anything do you do?

24 A. I immediately I call Officer Manganiello and
25 Officer Acosta --

cpB

S.P.O. Colon - People - Direct

411

1 Q. How do you call --

2 A. -- to respond.

3 Q. How do you call them?

4 A. "Central to East Charlie David."

5 Q. Okay, and it is -- "Central to East Charlie
6 David" means you're talking to who, Acosta or
7 Manganiello?

8 A. Officer Manganiello.

9 Q. And this is over a radio?

10 A. Over the radio.

11 Q. So, you call "Central to East Charlie
12 David." What happens?

13 A. I indicated to East Charlie David that there
14 was a man down at 1700 Met in that room.

15 Q. And the room is located where within the
16 building? What floor?

17 A. It's in the basement.

18 Q. Now, when you put this message out to
19 Officer Manganiello, do you get any response from him?

20 A. I heard him call. He didn't understand my
21 call, it appears, so he was trying to get another post
22 to relay the message to me.

23 Q. And what if any transmission did you
24 continue to make?

25 A. I kept saying that -- I called the sergeant.

cpB

S.P.O. Colon - People - Direct

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1 I was trying to get somebody to go over there to check
2 up on a so-called man down without knowing really what
3 was going on down there.

4 Q. When this information, "man down," was
5 communicated to you, did you know whether or not the
6 man down was a civilian or an officer?

7 A. I had no idea who it was.

8 Q. At some -- do you continue to make
9 communications over the air?

10 A. Right.

11 Q. Who are you attempting to communicate with
12 to get people over to that building?

13 A. I couldn't reach Officer Manganiello and
14 Officer Acosta, so I relayed the message to the
15 sergeant.

16 Q. That is my question. During this
17 communication period where you're trying to reach
18 Officer Manganiello in E Charlie David, are you also
19 trying to reach Officer Acosta to send him to the
20 basement of 1700?

21 A. Yes, ma'am. Yes.

22 Q. Please tell us, these radio communications
23 that you were making that day as the Central dispatcher
24 from Parkchester, were they being recorded that day?

25 A. Yes, ma'am.

cpB

S.P.O. Colon - People - Direct

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1 Q. And the transmission that you have just told
2 us about, was that transmission recorded that day?

3 A. Yes, ma'am, it was.

4 Q. And was that transmission from that day
5 preserved on an audio cassette?

6 A. Yes, ma'am.

7 MS. SCACCIA: Your Honor, at this point
8 I'm going to ask to have the following tape marked
9 as People's, I believe I'm up to 6.

10 (Whereupon, the item referred to is
11 marked People's Exhibit 6 for identification.)

12 THE COURT OFFICER: People's Exhibit 6
13 marked for identification.

14 Q. Officer Colon, prior to coming to court
15 today and testifying here before these ladies and
16 gentlemen, have you had an opportunity to listen to the
17 tape that was maintained regarding this transmission
18 and review your paperwork regarding the transmission
19 that you sent out on February 12th of 2001?

20 A. Not until this morning I had an opportunity
21 to listen to somebody.

22 Q. And based upon your review of the tape and
23 the documents pertaining to that tape, does that tape
24 fairly and accurately capture the message that you sent
25 out to East quadrant Adam Boy/Charlie David about the

cpB

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1 man down at 1700?

2 A. Yes, it does, ma'am.

3 MS. SCACCIA: Based upon that, Your
4 Honor, I'm going to ask, with the assistance of Mr.
5 Longueira from the Video Unit and with the head
6 phones for the jurors, that that tape be played and
7 I move it into evidence.

8 MR. RICHMAN: No objection.

9 THE COURT: It's received in evidence.
10 But a portion of the tape previously indicated is
11 received in evidence.

12 MS. SCACCIA: Yeah.

13 MR. RICHMAN: Only that line.

14 THE COURT: Come up, please.

15 (Whereupon, a discussion was held off
16 the record between the Court and Counsel.)

17 (Continued on the following page.)
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19
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1 (Whereupon, the following took
2 place in the robing room in the presence of
3 the Court and all counsel, outside of the
4 presence of the defendant.)

5 THE COURT: All right. We are back
6 here in response to the defense counsel's
7 statement before the jury. I don't know how
8 he put it, "Only that portion," or "Only that
9 one statement."

10 MS. SCACIA: According to where we
11 left off this morning, your Honor stated
12 that --

13 THE COURT: No, what Mr. Richman
14 just said in front of the jury.

15 MS. SCACIA: He said that, "Only
16 one line."

17 MR. RICHMAN: "Only that line."

18 THE COURT: "Only that line."
19 Okay. So we have had a conversation off the
20 record. I'm not placing it on the record,
21 and as I understand it, Mr. Richman is
22 maintaining his position that I should not
23 let in the one portion of the tape that I did
24 let in, that single transmission, that given
25 that, I'm allowing it in, he is withdrawing

1 his objection to the rest of the tape coming
2 into evidence.

3 Is that correct?

4 MR. RICHMAN: Yes.

5 THE COURT: With the understanding
6 that you are preserving your objection to the
7 one statement.

8 MR. RICHMAN: Any portion thereof,
9 and that one portion has been admitted, I
10 would rather have the jury hear the entire
11 tape, rather than just that one line.

12 THE COURT: Just, I mean, just, you
13 keep calling it a portion thereof. It's a
14 portion of the tape. It's an entire
15 transmission.

16 Be that as it may, given also what
17 you have said, I feel that it's only
18 appropriate to indicate to the jury that I
19 was accepting in evidence only a part of it
20 based on your objection, and you are now
21 withdrawing that objection, and so I'm
22 receiving the entire tape in evidence.

23 MS. SCACIA: And I wasn't allowed
24 to offer it.

25 THE COURT: Just so it's clear,

1 what I'm going to tell the jury is that while
2 the People had asked to offer the entire tape
3 in evidence, based on your objection I
4 limited it to the single portion I indicated
5 I was receiving in evidence. You are now
6 withdrawing your objection to the entire
7 tape, and now the entire tape is received in
8 evidence; okay?

9 That's a yes?

10 MR. RICHMAN: Yes.

11 THE COURT: Okay.

12 (Whereupon, the following took
13 place in open court, in the presence of the
14 Court, all counsel, the defendant, and the
15 jury.)

16 THE COURT: All right, ladies and
17 gentlemen. I indicated earlier that I was
18 receiving only a portion of the tape in
19 evidence, and I just want to let you know,
20 the people had offered all of the tape in
21 evidence, and it was based on Mr. Richman's
22 objection out of your presence that I limited
23 it to only a portion of the tape.

24 Mr. Richman is now withdrawing that
25 objection, so I'm receiving the entire tape

1 in evidence as People's 6.

2 (Whereupon, People's Exhibit 6 was
3 marked and received in evidence.)

4 THE COURT OFFICER: So marked.

5 (Whereupon, a tape was played.)

6 Q Officer Colon, the transmissions that
7 we just heard, are those the transmissions that
8 were made that day between you and Officer
9 Manganiello?

10 A Yes, ma'am.

11 Q When Officer Manganiello uses the
12 phrase 10-8, what is that?

13 A That's when an officer requests a
14 break.

15 Q And "10-8 to the west" means what?

16 A It means that he wants to take a break
17 in the west section.

18 Q And in relation to the east section, is
19 the west section directly opposite that?

20 A The furthest point.

21 Q Now, aside from these radio
22 communications, does there come a point in time
23 that morning when Officer Manganiello contacts you
24 by another way?

25 A Yes, ma'am.

1 Q How does he contact you?

2 A He called me on the phone, stating that
3 he was serving a violation for improper garbage
4 disposal at 14 Metropolitan Oval.

5 Q At 14 what?

6 A 14 Metropolitan Oval.

7 Q 14, just those two numbers,
8 Metropolitan Oval?

9 A Yes, ma'am.

10 Q How far is that from 1700 Metropolitan
11 Avenue?

12 A It's the farthest point from 1700.

13 Q And is 14 Met Oval within the confines
14 of the eastern quadrant, Charlie David?

15 A It's the last building the opposite
16 way.

17 Q And do you recall what time Officer
18 Manganiello called you about issuing a summons for
19 garbage?

20 A It was after 10:00, like 10:15 or
21 10:20, somewhere around there.

22 Q Was it before or after you started
23 dispatching his call?

24 MS. SCACIA: Well, withdrawn.

25 Q Officer Colon, is there something that

1 would tell you precisely when Officer Manganiello
2 called you to tell you about issuing a garbage
3 summons?

4 MR. RICHMAN: Objection. He
5 answered 10:00, 10:15.

6 THE COURT: I'm sorry?

7 MR. RICHMAN: He answered.

8 THE COURT: Overruled.

9 Q You can answer.

10 A Can I hear it again, please.

11 Q Sure. Is there something that would
12 allow you to know exactly when Officer Manganiello
13 called you about issuing a summons for garbage?

14 A I found that odd, because --

15 Q No, no, no. You are not -- you are
16 saying that you don't recall exactly the time he
17 called as you sit here on the witness stand;
18 right?

19 A Yes, ma'am. You're right.

20 Q Is there something that would help you
21 to remember when he called about issuing a summons
22 for garbage?

23 A The fact that I was --

24 MR. RICHMAN: Objection.

25 THE COURT: The question is, is

1 there a document or something else that would
2 refresh your recollection.

3 THE WITNESS: Oh, yes. Yes, sir.
4 I'm sorry. I didn't get it.

5 Q What document would help you do that?

6 A That was -- I wrote it down in the
7 book.

8 Q The log book?

9 A The log book. It's ten something.

10 MS. SCACIA: Okay. I'm now going
11 to ask to have this page marked for
12 identification as People's Exhibit Number 7.

13 (Whereupon, People's Exhibit 7 was
14 marked for identification.)

15 THE COURT OFFICER: People's
16 Exhibit 7, marked for identification.

17 MS. SCACIA: May it be shown to the
18 witness?

19 Q Officer Colon, if you could, look at
20 that document to yourself. Do not read it out
21 loud, and after you finish looking at it, let us
22 know if that refreshes your recollection as to
23 what time Officer Manganiello called to say he was
24 issuing a summons for garbage.

25 (Whereupon, there was a pause in

1 the proceedings.)

2 A Yes, ma'am. That's 1940 hours.

3 Q Twenty to ten?

4 A 1940.

5 Q Okay. Thank you.

6 He called and told you about the
7 summons for issuing the garbage prior to you
8 getting the communication about a man down?

9 A Yes, ma'am.

10 Q After you had the transmissions that we
11 have just listened to on the Park Chester radio,
12 did there come a point in time when you called 911
13 from a telephone?

14 A Yes, ma'am.

15 Q And when -- was that after you finished
16 making those radio transmissions we heard?

17 A Yes, ma'am.

18 Q I'm now going to ask to have the
19 portion of the tape, which is -- a portion of
20 People's 3 in evidence, played for the members of
21 the jury.

22 THE COURT: This is now People's 3?

23 MS. SCACIA: People's 3.

24 (Whereupon, a tape was played.)

25 Q Officer Colon, is that you that we hear

1 calling 911?

2 A Yes, ma'am.

3 Q And you called 911 to get the police
4 department help over to the location?

5 A Yes.

6 Q When the operator on the 911 tape is
7 asking you about a man being down, do you still
8 have any idea of who is down in the basement?

9 A I have no idea.

10 Q And when you are saying that you sent
11 officers over there, in your mind, what officers
12 did you send over there?

13 A I sent Sergeant Ohle to investigate,
14 because I couldn't get Officer Manganiello or
15 Officer Acosta, therefore I sent Sergeant owly and
16 Officer Nieves.

17 Q And you do that, once again, by Park
18 Chester radio?

19 A Radio, yes, ma'am.

20 Q And then you make the phone call that
21 we heard to 911?

22 A Then, after Sergeant Ohle informs me
23 that there was an officer there, so I called right
24 away 911.

25 MS. SCACIA: Your Honor, I have no